

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NICHOLAS TSAMOUDAKIS, and
PETER TSAMOS,

Plaintiffs,

- against -

NOTICE OF MOTION

Case No.: 1:07-CV-06102-HB
Judge Baer

ZERTECK, INC.,
d/b/a/ BOAT-N-RV WAREHOUSE, JAMES SEGRUE,
RANDY RINKER, RINKER BOAT COMPANY, and
VOLVO-PENTA,

Defendants.

Please take notice that upon the Memorandum of Law and the Affidavit of Eric Geiger sworn to on the 16th day of August, 2007, the Complaint in this action and upon all proceedings had herein, the undersigned will move this Court for an Order pursuant to Fed. R. Civ. P., Rule 12(b)(3) for judgment dismissing the Complaint in its entirety on the grounds that it was brought in on an improper venue and it fails to state a claim upon which relief can be granted, or in the alternative compelling arbitration pursuant to 9 U.S.C. § 3 and CPLR § 7503 pursuant to the express terms of the Agreement between the parties to arbitrate any such dispute before the American Arbitration Association, pursuant to its commercial rules.

Dated: August 22, 2007
Clifton Park, New York

Matthew J. Sgambettera /s/
Matthew J. Sgambettera
Sgambettera & Associates, P.C.
Attorney for Defendants
323 Ushers Road, P.O. Box 1550
Clifton Park, New York 12065
Telephone No.: 518/877-7600